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No. 86-1719/86-1860

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In the

Supreme Court of the United States

October Term, 1986

IN RE: UNION CARBIDE CORPORATION GAS PLANT DISASTER AT BHOPAL, INDIA IN DECEMBER, 1984

THE UNION OF INDIA,
Respondent and Cross-Petitioner,

vs.

UNION CARBIDE CORPORATION,
Respondent.

REPLY TO BRIEF IN OPPOSITION OF UNION CARBIDE CORPORATION

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

THE UNION OF INDIA'S REPLY TO BRIEF IN OPPOSITION OF UNION CARBIDE CORPORATION

The Union of India, respondent and cross-petitioner, respectfully submits this reply to the brief in opposition to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit filed by Union Carbide Corporation.

During proceedings before the Court of Appeals Union Carbide stood totally mute with regard to the fairness hearing being sought by individual plaintiffs' attorneys. The belated suggestion now that this Court direct further settlement activities in this country while the case is litigated in India continues to evidence Union Carbide's "abysmal ignorance of basic jurisdictional principles." Cross Petition, Appendix A at p. A14. To suggest that an American court is better equipped to handle settlement negotiations than a court in Bhopal flies in the face of reason and logic and completely turns Union Carbide's *forum non conveniens* argument on its head. In the trial court Union Carbide argued strenuously for the Indian forum on the basis that all the victims were in India, all the doctors were in India, all the medical records were in India, and that consideration of Indian economic conditions and Indian law were necessary to award damages.

Now faced with an active lawsuit in India, which it has moved to stay five times, Union Carbide wants settlement discussions to be controlled by an American judge who has relinquished jurisdiction instead of the Indian judge in Bhopal, before whom the case is venued. The motive for this ploy is obvious. It starkly reveals Union Carbide's fundamental strategy of delay. Each of its motions for stay in the Indian Court has been premised on Union Carbide's continued involvement in U.S. judicial proceedings. By splitting the jurisdiction over this case between India and the United States, Union Carbide intends to delay the ultimate resolution of this case. Far from being concerned with a fair and equitable settlement, Union Carbide is only concerned about postponing the day of judgment as long as possible, thereby saving tens of millions of dollars in interest generated from dollars it has not yet been required to pay. Such a result ought not be countenanced by this Court.

The Indian judge before whom the case presently rests is fully capable of directing both the litigation and settlement negotiations. If Union Carbide is truly interested in a fair, equitable, generous and beneficial settlement of this litigation, it should take that matter up with the court in Bhopal.

Respectfully submitted,

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